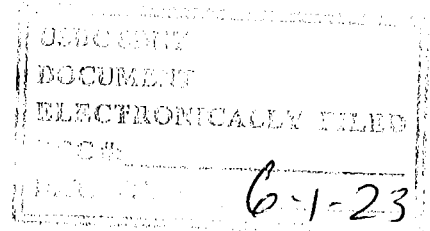


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
JESUS FERNANDEZ,  
Plaintiff,

v.

MARIA BADAMI, Physician's Assistant,  
Defendant.  
-----X**ORDER**

20 CV 10287 (VB)

Copies Mailed/Faxed  
Chambers of Vincent L. Briccetti

By order dated April 17, 2023, the Court scheduled an initial pretrial conference for May 31, 2023, at 9:30 a.m., and instructed plaintiff, who is proceeding pro se, and defense counsel to attend the conference via telephone. (Doc. #47). A copy of the April 17 scheduling order was mailed to plaintiff at Bare Hill Correctional Facility ("Bare Hill"), which plaintiff had listed as his mailing address in the amended complaint (Doc. #5) and in his opposition to defendant's motion to dismiss (Doc. #44).

On May 2, 2023, the Court's mailing to plaintiff of the April 17 scheduling order was returned with a note indicating plaintiff is no longer at Bare Hill and had been released from Orleans Correctional Facility ("Orleans") on April 13, 2023. The note did not provide plaintiff's current address, but stated Bare Hill sent a copy of the scheduling order to Orleans for forwarding to the address plaintiff provided at release.

On May 4, 2023, the Court issued an order which warned plaintiff, in bold typeface, that if he failed to notify the Court in writing of his current mailing address, the Court might dismiss this case for failure to comply with a Court order or for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (Doc. #49). The Court also reminded plaintiff of his obligation to attend the telephone conference on May 31, 2023, and again provided instructions on how to attend the conference. (*Id.*).

On May 12, 2023, the Court received notice that its May 4 Order, which was mailed to plaintiff at Orleans Correctional Facility for forwarding, was returned as undeliverable.

To date, plaintiff has not provided the Court with his current mailing address, despite being repeatedly ordered to notify the Court in writing if his address changes and warned that the case might be dismissed if he failed to do so. (*See* Docs. ##6, 8, 10, 15, 36, 49).

On May 31, 2023, the Court held an on-the-record conference via telephone, as scheduled. Plaintiff failed to appear, without excuse or explanation.

During the May 31 telephone conference, defense counsel advised the Court he sent a letter to plaintiff on May 2, 2023, at an address he obtained from the New York State Department of Corrections and Community Supervision ("DOCCS"), reminding plaintiff of his obligation to inform the Court of any change of address and notifying plaintiff of the May 31 conference. Defense counsel also advised the Court he received a phone call approximately three weeks ago from an individual who identified himself as plaintiff. During the call, defense counsel reiterated

plaintiff's obligation to update his current address and to attend the conference. (See Doc. #50 (post-conference letter documenting defense counsel's efforts to contact plaintiff)).

Accordingly, it is hereby ORDERED:

1. By **July 5, 2023**, plaintiff must update the Court in writing as to his current address.
2. On **July 5, 2023, at 12:00 p.m.**, the Court will hold a telephone conference in this action, which plaintiff and defense counsel are directed to attend by calling the following number and entering the access code when requested:

**Dial-In Number: (888) 363-4749 (toll free) or (215) 446-3662**

**Access Code: 1703567**

3. **If plaintiff fails to update his address in writing by July 5, 2023, and does not appear at the July 5 conference, without excuse or explanation, the Court will deem this action to be abandoned and will dismiss the action for failure to prosecute and comply with Court orders.** Fed. R. Civ. P. 41(b).

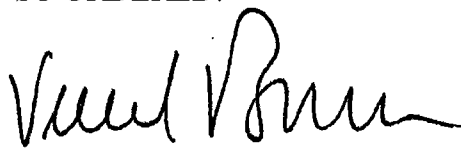
The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to plaintiff at **1730 Andrews Avenue, Apt. 1C, Bronx, NY 10453**, which is the address DOCCS provided to defense counsel and is believed to be plaintiff's current address. (See Doc. #50-1).

Dated: June 1, 2023

White Plains, NY

SO ORDERED:



Vincent L. Briccetti  
United States District Judge